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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,814	03/21/2001	Takashi Yugami	826.1716	1934

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EXAMINER

ZURITA, JAMES H

ART UNIT PAPER NUMBER

3625

DATE MAILED: 04/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/812,814

Applicant(s)

YUGAMI ET AL.

Examiner

James H. Zurita

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4 and 6-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4 and 6-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. <u>10 January 2006</u> . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____. |

RDETAILED ACTION

Prosecution History

The following chronology is presented to clarify the record.

On 21 March 2001, applicant filed the instant application. Applicant claims priority to application 2000-307563, filed 6 October 2000 in Japan.

On 23 December 2003, the Examiner issued a non-final rejection of claims 1-11 as anticipated by Kaminsky (PG-PUB 2001/0047308).

On 24 May 2004, applicant amended claims 1, 4, 6-11, cancelled claims 2, 3, 5.

On 1 July 2004, the Examiner rejected claims 1, 4, 6-11 as anticipated by Kaminsky, above. The Examiner introduced a rejection under 35 USC 101.

On 1 October 2004, Applicant amended claims 1, 4, 6-11, added claims 12-17.

On 19 October 2004, the Examiner issued a final rejection of claims 1, 4, 6-17.

On 19 January 2005, applicant filed a notice of appeal. No appeal brief was filed.

On 22 February 2005, applicant requested continuing examination.

On 12 April 2005, the Examiner rejected claims 1, 4 and 6-17 as unpatentable over Kaminsky, above.

On 11 August 2005, applicant amended claims 1, 8-12 and 16-17.

On 4 November 2005, Examiner issued a final rejection of claims 1, 4 and 6-17

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

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application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on 3 February 2006 has been entered.

Response to Amendment

On 3 February 2006, Applicant amended claims 1, 8-12 and 16-17.

Claims 1, 4 and 6-17 are pending and will be examined.

Independent claims:

- Claims 1, 8, 12, 16 and 17, drawn to methods.
- Claim 9, drawn to a medium.
- Claim 10, drawn to an apparatus.
- Claim 11, drawn to a signal.

Response to Arguments

Applicant's arguments filed 3 February 2006 have been fully considered but they are not persuasive.

On page 8, lines 5-14, applicant argues concerning Kaminsky:

That is, in Kaminsky, the user is able to see the price trend of a product and to make decisions about purchases based upon the price trend. For example, if the current price is relatively low and the price trend indicates that the price is going up, then the purchaser may want to go ahead and purchase the product at the current price.

On the other hand, if the current price is relatively high, and the price trend indicates that the price is going down, the purchaser may want to wait until the price goes down.

In response to these arguments, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art

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cannot be the basis for patentability when the differences would otherwise be obvious.

See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Applicant argues,

However, Kaminsky does not provide the advantage of allowing a purchaser to know what a price will be for a specified product on a specified future date, as in the present invention.

Further, in Kaminsky, the purchaser is not able to make a reservation for a future date to purchase the product.

In response to these arguments, the Examiner notes that these features are not claimed.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 1, 4 and 6-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaminsky U.S. PG-PUB 2001/0047308 in view of Lange (US 6,321,212).

As per claim 1, Kaminsky discloses managing a selling price, comprising:

- Counting a sales quantity (Fig. 3, "Qty");
- Setting a discount price as the selling price, the discount price produced by a discount from an original price, while the sales quantity is less than a predetermined quantity (paragraph 0049 and paragraph 0050);
- Setting the original price as the selling price at the time the sales quantity becomes equal to or greater than the predetermined quantity (paragraph 0050);

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- Providing a discount price rule to a purchaser's terminal via a network, said rule indicates dates and discount prices, wherein each discount price corresponds to each date (paragraph 0050. See also Fig. 3);
- Setting a purchase reservation time of the purchase reservation when the selling price corresponding to one of the discount prices from the rule equals the desired purchase price (paragraph 0052).

As previously noted without traverse and therefore admitted prior art, Kaminsky discloses a method where the merchant can set rules (the rules are stored via a database as shown in Figure 2,"36') for a current price. For the current price, the merchant can choose a start price for each product in a given lot that is 20 to 40% off of the regular list price. The merchant then also sets the percentage increment by which current price of a product can move up or down. Current price will drop a certain percentage over a given period of time (i.e., 3% drop every 6 hours) as set by the seller (paragraph 050).

Using the rule of Kaminsky as an example (i.e., 3% drop every 6 hours) and assuming that a product for sale had a starting price of \$100.00. The following information could be extrapolated in table form.

Price	Day	Time
\$100	1	+0 hrs
\$97	1	+6 hrs
\$94	1	+12 hrs
\$91	1	+18 hrs
\$88	1	+24 hrs
\$86	2	+0 hrs
\$83	2	+6 hrs
\$81	2	+12 hrs
\$78	2	+18 hrs
\$74	2	+24 hrs

Applicant's latest amendment includes the language "...the dates include the date after a current date..." In the above table, current date may be shown as day 1, and the date after a current date may be shown as day 2.

The Examiner notes, a discount price transition table that includes dates and discount prices is merely a manipulation of the rule / algorithm as disclosed by Kaminsky. A table can be defined as a list of entries, each entry being identified by a unique key and containing a set of related values.

Kaminsky teaches that some of the pricing schemes permit a buyer to request a deferred purchase at a deferred purchase price. See, for example, paragraph 21.

Kaminsky **does not** specifically disclose accepting a purchase reservation from said purchaser's terminal via the network, the purchase reservation specifying a future date among the dates indicated in said discount price transition table when the discount price corresponds to a desired purchase price of the purchaser. This feature is disclosed by Lange, as in Col. 3, lines 36-50, for example.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Kaminsky and Lange and disclose accepting a purchase reservation from said purchaser's terminal via the network, the purchase reservation specifying a future date among the dates indicated in said discount price transition table when the discount price corresponds to a desired purchase price of the purchaser.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine Kaminsky and Lange and disclose accepting a purchase reservation from said purchaser's terminal via the network, the purchase reservation specifying a future date among the dates indicated in said discount price transition table when the discount price corresponds to a desired purchase price of the purchaser for the obvious reason that this provides buyers a measure of protection from risk.

As per claim 4, Kaminsky further discloses a method comprising:

- Setting the discount price to a minimum discount price (paragraph 0044, "The business entity can set either a floor, or minimum price for the product they wish to offer..."); and
- Holding the minimum discount price as the selling price after the selling price reaches the minimum discount price, as long as the sales quantity is less than the predetermined quantity (paragraph 0039).

As per claim 6, Kaminsky further discloses a method comprising allocating a product to the purchase reservation if the sales quantity is less than the predetermined quantity when the selling price reaches the desired purchase price (paragraph 0049 and paragraph 0050).

As per claim 7, Kaminsky further discloses a method comprising canceling the purchase reservation if the sales quantity is equal to or greater than the predetermined quantity when the selling price reaches the desired purchase price (paragraph 0056).

Claim 8 is rejected under the same rationale as set forth above in claims 1-7.

Claim 9 is rejected under the same rationale as set forth above in claims 1-7.

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Claim 10 is rejected under the same rationale as set forth above in claims 1-7.

Claim 11 is rejected under the same rationale as set forth above in claims 1-7.

Claims 12-15 are rejected under the same rationale as in claims 1-7.

Claim 16 is rejected under the same rationale as set forth above in claims 1-7.

Claim 17 is rejected under the same rationale as set forth above in claims 1-7.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H. Zurita whose telephone number is 571-272-6766. The examiner can normally be reached on 8a-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Fadok can be reached on 571-272-6755. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James Zurita
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7 April 2006

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Jt